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★ MAY 15 2006 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SHANNON JIMENEZ,

Petitioner,

-against-

ORDER

06-CV-00177

UNITED STATES OF AMERICA,

Respondent.

-----X
DEARIE, District Judge.

Petitioner, pro se, moves pursuant to 28 U.S.C. § 2255 to challenge his sentence as invalid under United States v. Booker, 125 S. Ct. 738 (2005). In 1995, petitioner was convicted of conspiracy to distribute and possess with intent to distribute crack cocaine in connection with his participation in the activities of the "Supreme Team," a violent drug gang operating in and around the Baisley Park Houses in Jamaica, Queens. He previously filed a Section 2255 petition to vacate his conviction in 1999, attacking counsel as incompetent and complaining that this Court failed to make explicit findings relating to certain sentencing issues. This Court denied that petition by order dated July 28, 2000, and petitioner appealed. In addition, petitioner moved for reconsideration on the ground that his sentence violated Apprendi v. New Jersey, 530 U.S. 466 (2000). The motion for reconsideration was construed as a second petition and transferred to the Court of Appeals pursuant to Liriano v. United States, 95 F.3d 119 (2d Cir. 1996).

Petitioner was granted a certificate of appealability limited to the question of whether this Court improperly failed to make specific factual findings on the amount of drugs attributable to each defendant in the conspiracy and whether the concerns of Apprendi were implicated by such failure. The judgment of this Court was affirmed on December 20, 2001. Jimenez v. United

States, 28 Fed. Appx. 37 (2d Cir. 2001).

Petitioner has not obtained authorization to file the instant successive petition. Accordingly, for the reasons stated in the government's letter dated February 28, 2006, the petition is transferred to the Court of Appeals pursuant to Liriano.

SO ORDERED.

Dated: Brooklyn, New York
May 12, 2006

s/Raymond Dearie

RAYMOND L. DEARIE
United States District Judge